

THE HONORABLE ROBERT S. LASNIK

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

PAIGE A. THOMPSON,

Defendant.

Case No. CR19-159-RSL

**AMAZON WEB SERVICES, INC.'S  
MOTION TO QUASH DEFENDANT'S  
TRIAL SUBPOENA**

NOTE ON MOTION CALENDAR:  
June 17, 2022

**INTRODUCTION**

Amazon Web Services, Inc. ("AWS") moves the Court to quash Defendant's Subpoena to Testify at a Hearing or Trial in a Criminal Case to non-party Nima Mehr, a foreign national who resides in Canada.

**BACKGROUND**

On March 28, 2022, Defendant emailed AWS a link containing trial subpoenas directed at every current AWS employee—11 in total—who was deposed in the related civil matter, In Re: Capital One Consumer Data Security Breach Litigation, MDL No. 1:19-md-02915 (AJT-JFA). *See* Newby Decl. ¶ 2. One of the employees that Defendant subpoenaed—Nima Mehr—is a foreign national who resides and works for AWS in Vancouver, Canada. *See id.* ¶¶ 3, 6, Ex. A at 8. From March 30, 2022 to May 4, 2022, counsel for Defendant and counsel for AWS corresponded via email about scheduling a call to discuss the trial subpoenas that Defendant issued. *See id.* ¶¶ 4, 6, Ex. A at 4–8. On May 9, 2022, counsel for both parties met and conferred regarding the subpoenas and AWS informed Defendant that Mr. Mehr does not reside in the United States and is not available for trial. *See id.* ¶¶ 3–4, 6, Ex. A. at 3. After further email correspondence, counsel for

1 Defendant informed AWS on June 1, 2022 that Mr. Mehr and others are “still under subpoena and  
2 we anticipate calling them, if they don’t testify in the government’s case in chief...” *See id.* ¶¶ 5,  
3 6, Ex. A 1–2.

#### 4 ARGUMENT

5 Defendant has no authority to issue a subpoena to Mr. Mehr, a foreign national currently  
6 residing in Canada. Absent an authorizing statute, this Court's subpoena powers do not extend  
7 beyond the boundaries of the United States to a foreign national. *See* Fed. R. Civ. P. 45(b)(2) (“A  
8 subpoena may be served at any place within the United States.”); Fed. R. Crim. P. 17(e)(2) (citing  
9 28 U.S.C. § 1783 which limits the issuance of a subpoena to a “***national or resident of the United***  
10 ***States*** who is in a foreign country”) (emphasis added); *Gillars v. United States*, 182 F.2d 962, 978  
11 (D.C.Cir.1950) (aliens who are inhabitants of a foreign country cannot be compelled to respond to  
12 a subpoena); *United States v. Medjuck*, 156 F.3d 916, 920 (9th Cir.1998) (“[T]he Canadian  
13 witnesses were unavailable for trial because they were beyond the subpoena power of the United  
14 States”); *United States v. Jinian*, 2010 WL 3910138, at \*2 (N.D. Cal. Oct. 5, 2010) (noting that  
15 because the witness was located in Mexico, he was not “subject to the subpoena power of this  
16 Court”). As in *Medjuck* and *Jinian*, Mr. Mehr is not a U.S. citizen, and he lives and works outside  
17 the United States. Accordingly, Defendant’s subpoena to Mr. Mehr is invalid and should be  
18 quashed.

#### 19 CONCLUSION

20 For the reasons set forth above, AWS respectfully requests that the Court quash the  
21 subpoena issued to a foreign national outside of the boundaries of the United States.  
22  
23  
24  
25  
26  
27  
28

1 Dated: June 6, 2021

Respectfully submitted,

2 FENWICK & WEST LLP

3 By: /s/ Brian D. Buckley  
4 Brian D. Buckley, WSBA No. 26423

5 1191 Second Avenue, 10th Floor  
6 Seattle, WA 98101  
7 Telephone: 206.389.4510  
8 Facsimile: 206.389.4511  
9 Email: bbuckley@fenwick.com

10 Tyler G. Newby (*pro hac vice*)

11 FENWICK & WEST LLP  
12 555 California Street, 12<sup>th</sup> Floor  
13 San Francisco, CA 94104  
14 Telephone: 415.875.2300  
15 Facsimile: 415.281.1350  
16 E-mail: tnewby@fenwick.com

17 *Counsel for Amazon Web Services, Inc.*

FENWICK & WEST LLP